

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER



ARIZONA CORPORATION COMMISSION

DATE: FEBRUARY 16, 2000

DOCKET NO: G-03703A-99-0525

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Karen Nally. The recommendation has been filed in the form of an Order on:

BLACK MOUNTAIN GAS COMPANY
(HOLDING COMPANY)

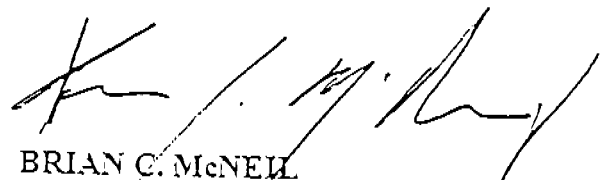
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

FEBRUARY 25, 2000

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

MARCH 1, 2000 and MARCH 2, 2000

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 WILLIAM A. MUNDELL
COMMISSIONER

5
6 IN THE MATTER OF THE NOTICE OF BLACK
MOUNTAIN GAS COMPANY, A WHOLLY-
7 OWNED SUBSIDIARY OF NORTHERN STATES
POWER COMPANY, CONCERNING
8 RESTRUCTURING OF HOLDING COMPANY.

DOCKET NO. G-03703A-99-0525

DECISION NO. _____

ORDER

9 Open Meeting
March 1 and 2, 2000
10 Phoenix, Arizona

11 **BY THE COMMISSION:**

12 On September 20, 1999, Black Mountain Gas Company ("Black Mountain") and its parent
13 holding company, Northern States Power Company ("Northern States"), filed an application to
14 restructure the holding company with the Arizona Corporation Commission ("Commission").

15 On December 17, 1999, the Utilities Division Staff ("Staff") filed its Staff Report in this
16 matter recommending approval without a hearing.

17 On February 4, 2000, Black Mountain and Northern States filed with the Commission the
18 Federal Energy Regulatory Commission's ("FERC") January 12, 2000 Order approving Merger and
19 Conditionally Accepting for Filing the Proposed Joint Open Access Transmission Tariff, Operating
20 Agreement, Statement of Policy and Code of Conduct with the Commission.

21 Black Mountain and Northern States request approval of the merger of Northern States and
22 New Century Energies, Inc. ("New Century") into a new registered holding company called Xcel
23 Energy, Inc. ("Xcel"). Upon completion of the merger, Black Mountain will become a subsidiary of
24 Xcel.

25 **Background**

26 Black Mountain is a wholly-owned subsidiary of Northern States, providing natural gas
27 distribution service and underground propane distribution service to approximately 6,500 customers
28 in Cave Creek and Page, Arizona. Black Mountain's Cave Creek division serves approximately

1 5,000 natural gas customers in areas near Cave Creek, Carefree, Phoenix, and Scottsdale, Arizona.
2 Its Page division serves approximately 1,300 customers in the City of Page through underground
3 distribution of propane vapor. Black Mountain also provides propane service to an area in Coconino
4 County, Arizona through its subsidiary, Lake Powell Propane. Black Mountain had 1998 revenues of
5 \$6.0 million and net income of \$1.1 million.

6 Northern States is an investor-owned gas and electric utility that provides service to
7 approximately two million customers in Minnesota, Michigan, North Dakota, South Dakota, and
8 Wisconsin. Northern States had 1998 operating revenues of \$2.8 billion and net income of \$282
9 million.

10 Northern States' non-utility operations include residential appliance services, construction of
11 natural gas distribution systems, sale and installation of power quality instruments, sale of steam to
12 industrial customers, and installation and maintenance of street lighting for municipalities and other
13 customers.

14 New Century is an investor-owned holding company formed in August of 1997 through the
15 merger of Public Service of Colorado and Southwestern Public Service. Through its utility
16 subsidiaries, New Century provides service to approximately 1.6 million electric and 1.0 million
17 natural gas customers in Colorado, Texas, Wyoming, Kansas, Oklahoma, and New Mexico. New
18 Century had 1998 operating revenues of \$3.6 billion and net income of \$341 million.

19 Through its non-utility holding company subsidiary, NC Enterprises, New Century owns 50
20 percent of Yorkshire Electric, a regional electric and gas company located in the United Kingdom
21 that supplies and distributes electricity and natural gas to approximately 2.3 million customers. In
22 addition, New Century owns WestGas Interstate and Texas-Ohio Gas, which provide interstate
23 natural gas transportation services in Colorado, Wyoming and Kentucky.

24 Jurisdiction

25 In Decision No. 61914, dated August 27, 1999, the Commission approved the transfer of
26 Northern States' Arizona gas utility assets, related liabilities, and its Certificate of Convenience and
27 Necessity to the newly formed subsidiary, Black Mountain.

28 In Decision No. 61914, Northern States and Black Mountain were granted a partial waiver of

1 the Affiliated Interest Rules. Under the partial waiver, Northern States' filings pursuant to A.A.C.
2 R14-2-803 were limited to (1) any organization or reorganization that would affect the relationship
3 between Northern States and Black Mountain (2) any organization or reorganization of Black
4 Mountain and (3) any organization or reorganization of Northern States which would result in a
5 change in the control of Northern States. In addition, Northern States is required to file a notice of
6 organization or reorganization for all transactions likely to increase direct or allocated costs to Black
7 Mountain.

8 Proposed Merger

9 Pursuant to A.A.C. R14-2-803 and the partial waivers granted in Decision No. 61914,
10 Northern States and Black Mountain request approval of the merger of Northern States and New
11 Century into a new holding company to be called Xcel Energy, Inc. ("Xcel"). At the time of the
12 transaction, New Century will be merged with and into Northern States, with Northern States being
13 the surviving corporation. New Century will then cease to exist and Northern States will be renamed
14 Xcel. The articles of incorporation and bylaws of Northern States will then be the articles of
15 incorporation and bylaws of Xcel, with Xcel being a registered holding company under the Federal
16 Public Utility Holding Company Act of 1935.

17 Purpose of Merger

18 Northern States and Black Mountain have stated that the proposed transaction would create a
19 number of benefits for customers such as creating efficiencies and would position the combined
20 company for competition. They also stated in the application that the merger will generate total
21 savings of approximately \$1.1 billion, with approximately \$260,000 allocated to Black Mountain
22 over ten years, providing rate stability for its customers.

23 The companies also believe that a combined entity will significantly increase market
24 capitalization, resulting in increased financial flexibility and improved access to capital markets.
25 New Century also cites similar reasons in its Proxy Statement, including significant cost savings
26 through the elimination of duplicate corporate and administrative programs, enhanced financial
27 strength, and a foundation for growth in non-regulated areas.

28 In its Staff Report, Staff stated that the merger of Northern States and New Century may have

1 some positive benefits such as increased efficiencies which could be expected in centralized
2 accounting and administrative operations, which could result in lower costs to Black Mountain.
3 Further, Staff stated that the size of the new company would help to ensure adequate capital is
4 available for future growth plans of Black Mountain.

5 Financing and Xcel's Capital Structure

6 The transaction will be a tax-free, stock-for-stock exchange for shareholders of both
7 companies and will be accounted for as a pooling of interests. Holders of New Century stock will
8 receive 1.55 shares of Xcel stock for each share of New Century stock, and Northern States'
9 shareholders will receive one share of Xcel stock for each share of Northern States' stock. The
10 resulting company will have total assets of approximately \$15.1 billion, with electric and gas
11 revenues of approximately \$5.0 billion and \$1.1 billion, respectively.

12 Staff examined the actual 1998 capital structures of Northern States and New Century in
13 addition to the five largest investor-owned public utilities by market capitalization. Both capital
14 structures are consistent with those of other large, publicly traded electric utilities. According to
15 Staff, the 1998 pro forma consolidated capital structure of Xcel, consisting of 48.33 percent debt and
16 51.67 percent equity, represents a well-balanced capital structure, consistent with other large,
17 publicly traded utilities.

18 Black Mountain Post-Merger

19 As a result of the proposed transactions, Black Mountain will become a first-tier utility
20 operating subsidiary of Xcel with its headquarters remaining in Cave Creek, Arizona. Black
21 Mountain will continue to provide utility service to its current customer base. The Companies have
22 indicated that the localized management of Black Mountain will not change as a result of the
23 proposed merger. Black Mountain will continue to be managed locally as a separate corporate
24 subsidiary, similar to its current relationship with Northern States.

25 The Companies' cost analysis, conducted by Deloitte Consulting, LLC ("Deloitte"), estimates
26 that the transaction will result in approximately \$1.3 billion in total savings over ten years, excluding
27 certain on-going costs necessary to achieve them. In addition to the savings, Deloitte has calculated
28 one-time transition and transaction costs of approximately \$149.5 million, and \$92.9 million of cost-

1 cutting measures initiated prior to the merger. This calculates to net merger savings of approximately
2 \$1.1 billion, to be realized over a 10-year period.

3 Black Mountain's allocated portion of the total savings is estimated to be \$260,000 or
4 approximately \$26,000 for each of the ten years following the merger. Black Mountain's portion of
5 the one-time transition and transaction costs (including income tax gross-up) is approximately
6 \$35,000. The Companies have requested Commission approval to amortize Black Mountain's
7 portion of the transition and transaction costs over a 36-month period starting with the effective date
8 of the merger. With this, the Companies commit that they will not seek to recover merger-related
9 costs in excess of merger-related savings in any general rate case filed during the amortization period.

10 According to the Staff Report, as these costs are nominal, determination of ratemaking
11 treatment as well as the amortization would be premature at this time. Staff therefore believes that
12 the review of the estimated transition and transaction costs should be postponed until the Cave Creek
13 Division's rate review, which is scheduled to take place before the end of the second quarter of 2000.
14 At the time of such review, Staff will also examine Black Mountain's allocated portion of the merger-
15 related savings to determine whether a refund to customers is appropriate.

16 Operation Effects of the Proposed Merger

17 In Decision No. 61914, dated August 27, 1999, the Commission approved an "Administrative
18 Services Agreement" ("Agreement") between Black Mountain and Northern States. Pursuant to this
19 Agreement, Northern States is to provide certain management, supervisory, construction,
20 engineering, accounting, and other administrative services to Black Mountain. Charges for these
21 services are assigned using fully allocated costing principles.

22 Upon completion of the proposed merger, New Century's current service subsidiary, New
23 Century Services, will be renamed Xcel Energy Services, Inc. ("Service Company"). Service
24 Company will then provide administrative services to Black Mountain, in addition to other regulated
25 and non-regulated subsidiaries of Xcel. Charges for these services will be allocated based on the
26 current agreement between Northern States and Black Mountain.

27 Black Mountain and Northern States stated in their application that a change in service
28 companies would not affect the customers or employees of Black Mountain.

1 The companies have also stated that the post-merger tax allocation method will be consistent
2 with the current tax sharing agreement between Black Mountain and Northern States, which was
3 approved in Decision No. 61914.

4 Financial Impact of the Proposed Merger

5 Black Mountain's capital structure is separate from Northern States' capital structure, and will
6 remain separate from the capital structure of Xcel. Consequently, the proposed merger should not
7 have an effect on the capital structure of Black Mountain which in 1998 consisted of 29.5 percent
8 debt and 70.40 percent equity. Although the capital structure of the subsidiary is separate from that
9 of the parent, the parent can influence the subsidiary's capital structure by increasing or decreasing
10 dividends paid upstream by the subsidiary, or by infusions of equity. Staff also indicated that the
11 financial strength of the parent company could influence a subsidiary's accessibility to capital
12 markets.

13 Staff believes that the merger of Northern States and New Century would likely improve
14 Black Mountain's ability to attract capital at fair and reasonable terms. The resulting company will
15 be one of the ten largest utilities in the United States with Black Mountain comprising less than one
16 percent of its total assets and revenues. The size and financial strength of Xcel should help to ensure
17 that adequate capital is available for the future growth plans of Black Mountain.

18 * * * * *

19 Having considered the entire record herein and being fully advised in the premises, the
20 Commission finds, concludes, and orders that:

21 FINDINGS OF FACT

22 1. On September 20, 1999, Black Mountain and its parent holding company, Northern
23 States, filed an application to restructure the holding company with the Commission.

24 2. On December 17, 1999, Staff filed its Staff Report in this matter recommending
25 approval without a hearing.

26 3. On February 4, 2000, Black Mountain and Northern States filed FERC's January 12,
27 2000 Order Approving Merger and Conditionally Accepting for Filing the Proposed Joint Open
28 Access Transmission Tariff, Operating Agreement, Statement of Policy and Code of Conduct with

1 the Commission.

2 4. Black Mountain and Northern States have requested approval of the merger of
3 Northern States and New Century into a new registered holding company called Xcel with Black
4 Mountain becoming a subsidiary of Xcel.

5 5. Black Mountain is a wholly owned subsidiary of Northern States that provides natural
6 gas distribution service and underground propane distribution service to approximately 6,500
7 customers in Cave Creek and Page, Arizona.

8 6. In Decision No. 61914, dated August 27, 1999, the Commission approved the transfer
9 of Northern States' Arizona gas utility assets, related liabilities, and its Certificate of Convenience
10 and Necessity to the newly formed subsidiary, Black Mountain.

11 7. In Decision No. 61914, Black Mountain and Northern States were granted a partial
12 waiver of the Affiliated Interest Rules.

13 8. Pursuant to the waiver, Northern States and Black Mountain were required to file this
14 application with the Commission for approval.

15 9. At the time of the transaction, New Century will be merged with and into Northern
16 States, with Northern States being the surviving corporation. New Century will then cease to exist
17 and Northern States will be renamed Xcel.

18 10. Northern States and Black Mountain indicate that the proposed transaction would
19 create a number of benefits for the customers such as creating efficiencies and generate savings of
20 \$260,000 to Black Mountain over ten years, providing rate stability to customers.

21 11. The Staff Report indicated that the 1998 pro forma consolidated capital structure of
22 Xcel, consisting of 48.33 percent debt and 51.67 equity, represents a well-balanced capital structure,
23 consistent with other large, publicly traded utilities.

24 12. As a result of the transaction, Black Mountain will become a first-tier utility operating
25 subsidiary of Xcel with its headquarters remaining in Cave Creek, Arizona with no change in
26 localized management.

27 13. Black Mountain will continue to provide service to its current customer base.

28 14. Black Mountain will continue to be managed locally as a separate corporate

1 subsidiary, similar to its current relationship with Northern States.

2 15. Black Mountain's portion of the one-time transition and transaction costs (including
3 income tax gross-up) is approximately \$35,000.

4 16. Black Mountain's allocated portion of the total savings is estimated to be \$260,000,
5 approximately \$26,000 for each of the ten years following the merger.

6 17. Black Mountain and Northern States have requested Commission approval to amortize
7 Black Mountain's portion of the transition and transaction costs over a 36-month period starting with
8 the effective date of the merger with the Companies committing to not seek merger-related costs in
9 excess of merger-related savings in any general rate case filed during the amortization period.

10 18. Upon completion of the proposed merger, New Century's current service subsidiary,
11 New Century Services, will be renamed Xcel Energy Services, Inc. which will provide administrative
12 services to Black Mountain. Charges will be allocated based on the current agreement between
13 Northern States and Black Mountain where the charges are assigned using fully allocated costing
14 principles.

15 19. Staff indicated that the merger would likely improve Black Mountain's ability to
16 attract capital at fair and reasonable terms as the size and financial strength of Xcel should help to
17 ensure adequate capital is available for the future growth plans of Black Mountain.

18 20. Staff's recommendations are as follows:

- 19 a. Staff believes that the proposed merger of Northern States with New Century into a
20 new utility holding company, Xcel, will not impair the financial status of Black
21 Mountain;
- 22 b. Staff further believes that the proposed merger of Northern States with New Century
23 into a new utility holding company, Xcel, will not impair the ability of this
24 Commission to regulate Black Mountain;
- 25 c. Staff further believes that the proposed merger will not prevent Black Mountain from
26 attracting capital at fair and reasonable terms;
- 27 d. Staff further believes that the proposed merger will not impair the ability of Black
28 Mountain to provide safe, reasonable and adequate service;
- e. Staff therefore recommends approval of Black Mountain's application for the merger
of its parent holding company, Northern States Power Company with new Century

Energies, Inc., into a new registered holding company called Xcel Energy, Inc.;

f. Staff also recommends that the partial waiver of the Affiliated Interest Rules granted in Decision No. 61914, dated August 27, 1999, apply to Xcel Energy, Inc. upon completion of the transaction; and

g. Staff also recommended denial of the Applicants' request to amortize Black Mountain's allocated share of the transition and transaction costs starting with the effective date of the merger. Instead, Staff recommends that the determination of treatment and any amortization be postponed until the Cave Creek division's rate review scheduled to take place no later than the second quarter of 2000. At the time of such review, Staff will also examine Black Mountain's allocated portion of the merger-related savings to determine whether a refund to customers is appropriate.

21. The Administrative Services Agreement between Black Mountain and Xcel Energy Services, Inc. is approved to the extent that it is based on the current agreement between Black Mountain and Northern States as approved in Decision No. 61914.

22. The post-merger tax allocation method shall be based on the current tax sharing agreement between Black Mountain and Northern States, which was approved in Decision No. 61914.

CONCLUSIONS OF LAW

1. Black Mountain is a public service corporation within the meaning of Article XV of the Arizona Constitution.

2. The Commission has jurisdiction over Black Mountain and the subject matter of the application.

3. Black Mountain should continue to charge the rates and charges presently in effect.

4. The application should be approved with the partial waiver of the Affiliated Interest Rules granted in Decision No. 61914, dated August 27, 1999, to apply to Black Mountain and Xcel Energy, Inc. upon completion of the transaction.

5. Staff's recommendations as set forth in Findings of Fact No. 19 and 20 are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of Black Mountain Gas Company and its parent company, Northern States Power Company, for approval of the merger of Northern States

1 Power Company and New Century Energies, Inc. into a new registered holding company called Xcel
2 Energy, Inc. with Black Mountain becoming a subsidiary of Xcel Energy, Inc. upon completion of
3 the merger, be, and is hereby, granted.

4 IT IS FURTHER ORDERED that Xcel Energy, Inc. shall be a public utility holding company
5 pursuant to the terms of the Commission's Affiliated Interest Rules.

6 IT IS FURTHER ORDERED that Black Mountain Gas Company shall continue to charge
7 those rates and charges presently in effect.

8 IT IS FURTHER ORDERED that the partial waiver of the Affiliated Interest Rules granted in
9 Decision No. 61914 shall apply to Black Mountain Gas and Xcel Energy, Inc. upon completion of the
10 transaction.

11 IT IS FURTHER ORDERED that the partial waiver of the Affiliated Interest Rules for Black
12 Mountain Gas and Xcel Energy, Inc. be, and is hereby approved as set forth in Findings of Fact No.
13 20 and Conclusions of Law No. 4 and 5.

14 ...

15 ...

16 ...

17 ...

18 ...

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that the administrative service agreement and tax sharing
2 agreement shall be approved as set forth in Findings of Fact No. 21 and 22.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5
6
7 CHAIRMAN COMMISSIONER COMMISSIONER

8
9
10 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
11 Secretary of the Arizona Corporation Commission, have
12 hereunto set my hand and caused the official seal of the
13 Commission to be affixed at the Capitol, in the City of Phoenix,
14 this ____ day of _____, 2000.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
KEN:dap

1 SERVICE LIST FOR:

BLACK MOUNTAIN GAS COMPANY

2 DOCKET NO.

G-03703A-99-0525

3
4 Timothy Berg
FENNEMORE CRAIG
3003 N. Central Avenue, Suite 2600
5 Phoenix, Arizona 85012
6 Attorneys for Black Mountain Gas Co.

7 James P. Johnson
NORTHERN STATES POWER COMPANY
414 Nicollet Mall
8 Minneapolis, Minnesota 55410

9 Lyn Farmer, Chief Counsel
LEGAL DIVISION
10 1200 W. Washington Street
Phoenix, Arizona 85007

11 Deborah Scott, Director
12 UTILITIES DIVISION
1200 W. Washington Street
13 Phoenix, Arizona 85007